

Message Text

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ACTION EB-11

INFO OCT-01 EA-11 ADP-00 COME-00 L-03 SCI-06 HEW-08 H-02

EUR-25 CIAE-00 INR-09 NSAE-00 RSC-01 RSR-01 /078 W

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FM AMEMBASSY MANILA

TO SECSTATE WASHDC 3833

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E. O. 11652: N/ A

TAGS: EIND, RP

SUBJECT: PROPOSED REVISION OF PHILIPPINE PATENT
LAW FOR PHARMACEUTICAL PRODUCTS

SUMMARY: GOP PRESENTLY CONSIDERING REVISION OF PHILIPPINE PATENT LAW WHICH WOULD SHIFT PHILIPPINE POLICY ON PHARMACEUTICALS FROM PRODUCT PATENT PROTECTION TO PROCESS PATENT PROTECTION. AMERICAN DRUG MANUFACTURERS FEEL THEY WOULD BE ADVERSELY AFFECTED. MANUFACTURERS POLICY IS TO MAKE POSITION KNOWN TO GOP THROUGH LOCAL ASSOCIATIONS AND INTERESTED GROUPS IN U. S. SUCH AS PHARMACEUTICAL MANUFACTURERS ASSOCIATION. GOP NOW HOLDING PUBLIC HEARINGS. DEADLINE FOR SUBMISSION OF POSITION PAPERS FROM INTERESTED PARTIES MARCH 24. EMBASSY IS IN CONTACT WITH AMERICAN FIRMS AND WILL KEEP CLOSE WATCH ON DEVELOPMENTS.

ACTION REQUESTED: EMBASSY WOULD APPRECIATE RECEIVING SOONEST WHATEVER INFO AND DATA DEPARTMENT CAN PROVIDE CONCERNING US POLICY ON PRODUCT PATENT PROTECTION FOR PHARMACEUTICALS.

1. WITH LITTLE PRIOR NOTICE GOP CALLED FOR PUBLIC HEARINGS MARCH 5 ON PROPOSED NEW DECREE (NO. 49- A) WHICH WOULD REVISE PHILIPPINE PATENT LAW. REVISED LAW WOULD INCLUDE MEDICINES IN DEFINITION OF UNPATENTABLE SUBJECT MATTER. GOP STATEMENT SAYS PURPOSE IS QUOTE LIFTING OF EFFECT OF PATENT MONOPOLY ON MEDICINES UNQUOTE AND QUOTE TO EXPOSE PHARMACEUTICAL PRODUCTS TO THE FORCES OF COMPETITION
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AND THUS REDUCE THE COST. UNQUOTE. OTHER CHANGES IN PROPOSED DECREE ARE 1) PERMITTING NON- UTILIZATION IN COUNTRY AS GROUNDS FOR CANCELLATION OF PATENT; 2) EXCLUSION OF IMPORTATION FROM DEFINITION OF QUOTE WORKING UNQUOTE OF PATENT; AND 3) GRANTING OF COMPULSORY LICENSES IN QUOTE VITAL AREAS UNQUOTE INVOLVING NATIONAL DEFENSE, ECONOMY AND PUBLIC HEALTH. GOP CLAIMS CANCELLATION PROVISION SANCTIONED BY ARTICLE 5, SECTION A (3) OF PARIS CONVENTION PROTECTION INDUSTRIAL PROPERTY.

2. HEARINGS BEING CONDUCTED BY COMMITTEE HEADED BY SUGAR QUOTA ADMINISTRATION UNSON WHO AT MARCH 5 MEETING ADMITTED HE KNEW LITTLE ABOUT DRUG INDUSTRY AND CLAIMED NEUTRALITY. SEVERAL COMMITTEE MEMBERS, HOWEVER, HAVE BEEN ACTIVE IN PREVIOUS ATTEMPTS TO CHANGE PATENT LAW. LOCAL FOREIGN DRUG FIRMS ALLEGE THAT COMMITTEE HAS BEEN UNDULY INFLUENCED BY UNITZOEUEMG COMPANY, A PHILIPPINE COMPANY WHICH HAS LARGEST SHARE OF LOCAL MARKET AND WHICH, DRUG COMPANIES CLAIM, WOULD BENEFIT MOST BY CHANGE IN LAW.

3. PROPOSED REVISION IS SIMILAR TO BILL INTRODUCED INTO PHILIPPINE CONGRESS SEVERAL TIMES IN PAST. PREVIOUS EFFORTS TO PASS LIKE MEASURE WERE THWARTED BY LOCAL, FOREIGN MANUFACTURERS SOMETIMES BY EXTRA- PARLIAMENTARY MEANS.

4. AMERICAN DRUG MANUFACTURERS PFIZER, SQUIBB, ABBOTT, RICHARDSON- MERRELL, AND MEAD- JOHNSON ARE MARSHALLING FORCES TO BEAT BACK LATEST OFFENSIVE ON PRESENT PRODUCT PATENT PROTECTION. IN ADDITION TO POSITION PAPER OPPOSING NEW DECREE NOW BEING PREPARED BY PHILIPPINE DRUG ASSOCIATION (PDA) WITH HELP FROM AMERICAN PATENT LAWYER SENT HERE BY US DRUG INDUSTRY, LOCAL COMPANIES ARE INVITING INTERESTED GROUPS IN US TO ADVISE GOP OF THEIR OPPOSITION. PHARMACEUTICAL MANUFACTURERS ASSOCIATION REPORTEDLY SENT TELEGRAM TO PRES MARCOS MARCH 6 ADVISING AGAINST ADOPTING NEW POLICY AND POINTING OUT POSSIBLE ADVERSE EFFECTS ON PHILIPPINE INVESTMENT CLIMATE OF LIFTING OF PATENT PROTECTION IN DRUG INDUSTRY. PDA ALSO HOPING TO GET STATEMENTS FROM DRUG MANUFACTURERS ASSOCIATIONS IN U. K., FRANCE AND GERMANY. DRUG FIRMS FROM THOSE COUNTRIES ALSO PRESENT IN LOCAL INDUSTRY. PDA AND OTHER INTERESTED PARTIES HAVE UNTIL UNCLASSIFIED

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MARCH 24 TO SUBMIT POSITION PAPERS.

5. EMBASSY IS IN CONTACT WITH AMERICAN FIRMS AND WILL
KEEP CLOSE WATCH ON DEVELOPMENTS. AS BACKGROUND AND FOR
POSSIBLE USE WITH GOP, EMBASSY WOULD APPRECIATE RECEIVING
SOONEST WHATEVER INFO AND DATA DEPARTMENT CAN PROVIDE
REGARDING US POLICY ON PRODUCT PATENT PROTECTION FOR
PHARMACEUTICALS.
BYROADE

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